

# Capital Revenue Divide

AAT Webinar  
4 September 2013  
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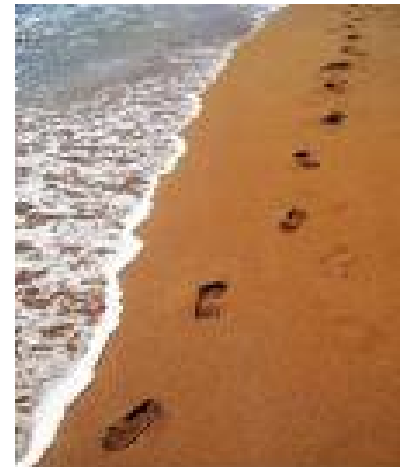


# = Coverage

- Why it matters
- Reasonable Care in a difficult area
- Materiality
- Legal position 30 June 2013
- Questions and answers
- Introduction chapter 1
- Receipts Chapter 2
- Expenditure Chapter 3
- Miscellaneous points and thoughts chapter 4
- Notes, slides and Q&A sent at end

# = Reasonable Care

- Legal and Professional fees are a risk area
- Never negligence if wrong but tenable view taken
- VERY IMPORTANT! If it can be shown that the taxpayer took reasonable care then there is no penalty due.
- IMPORTANT that there is a clear 'audit' trail
- Leave big FOOTPRINTS!!!
- Disclosure and transparency after Veltema
- Discovery – now 4 years



# = Business Profits

- Full amount of the profits
- UK GAAP s25 ITTOIA 2005 & s46 CTA 2009
- No deduction... capital ss33 &53
- Individual differential 10% and 62%
- Viscount Cave:
- ‘... when an expenditure is made, not only once and for all, but with a view to bringing into existence an asset on an advantage for the enduring benefit of the trade, I think that there is very good reason (in the absence of special circumstances leading to an opposite conclusion) for treating such expenditure as properly attributable not to revenue but to capital’.
- Abortive (see 3.7.2)

# = Receipts(1)

- Sale of trading stock or services revenue
- Assets? Watch balancing charge ! Plan
- Fixed Framework – Fleming, Barr Crombie, Lookers Ltd, Van den Berghs
- Normal incidence – Kelsall Parsons, Short Bros, Sunderland Shipbuilding,
- Glenboig Union Fireclay – measure not relevant (page 5 of notes)

# = Receipts (2)

- Burmah Steamship company
- London and Thames Haven Oil Wharves
- Countrywide Estate agents (£25 million)
- McLaren v Needham
- Evans v Wheatley
- Planning to use – sell canopy
- Brewers loans
- Mertrux Ltd v R&C [2011] UKFTT 398
- Philip Manduca v R & C [2013] UKFTT 234

= Any questions?



# = Expenditure (1)

- Toolkit guidance
- David Howell - Tomlin agreement – discovery
- Parnalls – outgoing partner – annuity commutation
- Anglo Persian (£300K)& Vodafone (£20m)
- Croydon Hotels
- Wimpey Waste management recurrence still capital



# = Expenditure (2)

- Leases – capital
- Richard Mills, Union Cold Storage, Stavely Coal and Iron (page 14 of notes)
- A repair is usually allowable, Odeon Theatres but Law Shipping is capital cost of acquiring
- Doctrine of entirety – chimneys  
Hopegar Properties Ltd v Revenue & Customs [2013] UKFTT 331
- Modern methods – Robins Bros  
Cairnsmill Caravan Park v Revenue & Customs [2013] UKFTT 164

# = Expenditure - recent developments

- G Pratt & Sons v R&C [2011] UKFTT 416 – repair of farm driveway (289 yards)
- Wills v R&C 2010 UKFTT 174 repair of outbuilding part of rented property
- Legal and Professional fees Market Southwest (Holdings) Ltd v Revenue & Customs (2010) UK FTT 121
- Fees to obtain a contract (abortive) see 3.7.2

Thank you for listening  
= Any Questions?

